



STATE OF DELAWARE

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September 9, 2015

MEMORANDUM

TO: The Chair and Members of the Commission

FROM: Toni Loper, Public Utility Analyst 

SUBJECT: IN THE MATTER OF THE APPLICATION OF EVOLUTION ENERGY PARTNERS LLC FOR A CERTIFICATE TO PROVIDE ELECTRIC SUPPLY SERVICES WITHIN THE STATE OF DELAWARE (SUBMITTED JULY 16, 2015; FILED SEPTEMBER 30, 2015) - PSC DOCKET No. 15-1128

Background

On August 24, 2015, Evolution Energy Partners LLC ("Evolution" or the "Company") submitted an application (the "Application") with the Delaware Public Service Commission ("Commission") for an Electric Supplier Certificate ("ESC") to act as a Broker in the State of Delaware pursuant to §1012 of the Electric Utility Restructuring Act of 1999, 26 *Del. C.* §1001 - §1020 (the "Act") and 26 *Del. Admin. C.* §3001, the Commission's Rules for Certification and Regulation of Electric Suppliers (the "Supplier Rules").¹

Application

The Company's original filing was submitted on July 16, 2015, but the submitted Application did not meet the minimum filing requirements ("MFR's"). Staff requested the Company file additional documentation on the following: a) a copy of the Delaware business license, b) a list of states presently selling supply service and/or pending applications, c) a professional resume for the principal officer(s) responsible for Delaware operations, and d) a sworn verification letter as required. Follow-up documentation from the Applicant was received on August 24, 2015. After further review Staff requested that the Company file a public version of the Company filed confidential financial statements as well as an attestation.² The requested redacted financial statements and attestation were received on September 30, 2015, this documentation addressed all deficiencies and satisfied the MFR's.

¹ Unless otherwise noted, all references to capitalized terms are set forth in the Act and/or the Supplier Rules.

² 26 *Del. Admin. C.* § 1001- 1.11.3 of the Rules of Practice and Procedure of the Delaware Public Service Commission requires the party seeking proprietary treatment shall submit for filing one copy of the document without the confidential information, with an indication that claimed confidential information has been deleted.

Review and Analysis

Authority to do Business in Delaware

The Company is a limited liability company formed under the laws of Delaware and has provided proof issued by the Delaware Secretary of State and Division of Revenue that it is legally authorized and qualified to do business in the State of Delaware.

Resident Agent

The Company supplied the contact information for a Delaware Registered Agent listed in the Application as Corporation Trust Center, Wilmington, DE.

Compliance with Regional Requirements

The Company affirms in its Application that it will only present electricity supply contracts to its customers from Marketers/Suppliers who are in compliance with all applicable PJM requirements.

Financial, Operational, Managerial and Technical Ability

The Company provided confidential personal financial statements for the President and Managing Member of Evolution, Charles J. Hurchalla, as indicia of financial capability under Section 2.1.1.5.1 of the Supplier Rules. Staff believes that these financial statements show substantial evidence of the Applicant's financial ability to provide services as a Broker in the State of Delaware.

The Company anticipates acting as a Broker serving small commercial, large commercial and industrial customers for the sale or purchase of electricity throughout the State of Delaware. The Application states that the Company is presently not licensed to sell electricity in any other state, but has applications pending in Illinois, Maryland, Massachusetts, New Jersey, and Pennsylvania. The Application states that the Company has not been denied approval nor had its authority revoked by any state commission. The Company provided a toll-free customer service telephone number.

The Application included a summary of the key operating personnel of the Company. Mr. Charles Hurchalla, President, has over 20 years' experience in the energy industry. He held positions with UGI Energy Services, including management level positions, where his responsibilities included founding and running the brokering/consulting business, as well as other positions where he was responsible for the sale of energy commodities. Mr. Michael Rothstein, Vice President Business Development, has management level work experience where his duties included analyzing client's websites, marketing plans, preparation of grant applications, sales of energy efficiency projects, solar projects and combined heat and power projects. His past work experience also includes duties such as drafting, reviewing and negotiating contracts, assistance with grant applications, overseeing sub-contractors', sales and development of energy efficiency projects, as well as negotiating purchase power agreements. Staff believes that the Company has demonstrated substantial evidence that its staff has the operational, managerial, and technical abilities to perform as a Broker in the State of Delaware. Staff performed an internet review of the key operating personnel and found no outstanding issues.

Staff believes that the Applicant's timely filing of necessary licensing requirements in this jurisdiction, along with the prompt response addressing identified deficiencies in this Application, and the extensive energy industry experience by the management shows substantial evidence of the Applicant's operational, technical and managerial ability to provide services as a Broker in the State of Delaware.

Surety Bond

The Company did not post a surety bond because it is a Broker only and there are no service agreements between the Company and any Delaware Electric Distribution Company. The Company will not collect any fees or deposits from any of its customers for any of its brokerage services.

Verification of Application

The Application and all subsequent filings were verified by Mr. Hurchalla, President.

Consent to Jurisdiction

The Company consents to the jurisdiction of the Delaware courts.

Contracts

The Company also did not provide any sample contracts for small commercial customers because it is a Broker only and does not and will not have contracts with Retail Electric Customers to provide Electric Supply Service.

Statement of Criminal Activity

The Applicant stated that they have not been charged or convicted of any criminal activity nor have any of its principals or corporation offices. An internet review of the Company and its principals revealed no issues.

Legal Review

Staff submitted this memo for review by the Attorney on September 9, 2015.

Staff Recommendation

Based on Staff's review and analysis of the Application, the Company has satisfied the requirements of the Act and the Supplier Rules. The Company resolved all outstanding issues with Staff and the completed Application supports the Company's request for certification. Staff's review and analysis of the Application submitted by the Company demonstrates substantial evidence of capability to render service based on the Company's financial, operational, managerial and technical abilities. Therefore, Staff recommends the Commission approve the Application.